

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5621 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

CHIRAN BOGA MALDE

Versus

STATE OF GUJARAT THRO' JOINT SECRETARY

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR.NEELAM SHUKLA,AGP for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the detention order dated 30.4.1996 passed by the District Magistrate, Jamnagar whereby the petitioner has been detained under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 7.6.1996 and since then the petitioner is under detention lodged at District Prison, Junagadh.

The present Special Civil Application was filed on 30.7.1996 and on 31.7.1996 Rule returnable for 19.8.1996 was issued. So far neither any reply has been filed nor the Detaining Authority has filed any affidavit.

The grounds of detention show that five criminal cases for the offences under the Prohibition Act were registered against the petitioner at Police Station Lalpur and the Detaining Authority has also taken into consideration the statements made by three witnesses against the petitioner's antisocial activities. The petitioner has been detained as bootlegger.

The order of detention has been challenged on more than one grounds but the stress has been laid on the ground that it is not a case of breach of public order.

In view of the reasons contained in this Court dated 4.10.1996 in Special Civil Application No. 3879 of 1996 it is clear that the allegation and material relied upon against the petitioner do not constitute the case of breach of law and order. The detention order therefore deserves to be set aside on this ground alone.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 30.4.1996 passed by the District Magistrate, Jamnagar is hereby quashed and set aside and the detention order is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute.
